

AMENDED IN SENATE APRIL 16, 2012

**SENATE BILL**

**No. 1495**

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**Introduced by Senator Wolk**

(Coauthors: Assembly Members Bill Berryhill, Galgiani, and Huber)

February 24, 2012

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An act to amend Section 85057.5 of the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

SB 1495, as amended, Wolk. Sacramento-San Joaquin Delta Reform Act of 2009.

The Sacramento-San Joaquin Delta Reform Act of 2009 establishes the Delta Stewardship Council, which is required to develop, adopt, and commence implementation of a comprehensive management plan for the Delta by January 1, 2012. *The act requires a state or local public agency that proposes to undertake a covered action to prepare a written certification, as prescribed, as to whether the covered action is consistent with the Delta Plan.* The act defines "covered action" to mean a plan, program, or project that meets specified conditions.

This bill would exclude from the definition of "covered action" specified leases approved by specified special districts, and *routine dredging activities and projects conducted by the federal government or specified special districts to improve interstate and international commerce through the navigable waters of the United States necessary for maintenance of certain facilities operated by special districts.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 85057.5 of the Water Code is amended  
2 to read:

3 85057.5. (a) “Covered action” means a plan, program, or  
4 project as defined pursuant to Section 21065 of the Public  
5 Resources Code that meets all of the following conditions:

6 (1) Will occur, in whole or in part, within the boundaries of the  
7 Delta or Suisun Marsh.

8 (2) Will be carried out, approved, or funded by the state or a  
9 local public agency.

10 (3) Is covered by one or more provisions of the Delta Plan.

11 (4) Will have a significant impact on achievement of one or  
12 both of the coequal goals or the implementation of  
13 government-sponsored flood control programs to reduce risks to  
14 people, property, and state interests in the Delta.

15 (b) “Covered action” does not include any of the following:

16 (1) A regulatory action of a state agency.

17 (2) Routine maintenance and operation of the State Water  
18 Project or the federal Central Valley Project.

19 (3) Regional transportation plans prepared pursuant to Section  
20 65080 of the Government Code.

21 (4) Any plan, program, project, or activity within the secondary  
22 zone of the Delta that the applicable metropolitan planning  
23 organization under Section 65080 of the Government Code has  
24 determined is consistent with either a sustainable communities  
25 strategy or an alternative planning strategy that the State Air  
26 Resources Board has determined would, if implemented, achieve  
27 the greenhouse gas emission reduction targets established by that  
28 board pursuant to subparagraph (A) of paragraph (2) of subdivision  
29 (b) of Section 65080 of the Government Code. For purposes of  
30 this paragraph, “consistent with” means consistent with the use  
31 designation, density, building intensity, transportation plan, and  
32 applicable policies specified for the area in the sustainable  
33 communities strategy or the alternative planning strategy, as  
34 applicable, and any infrastructure necessary to support the plan,  
35 program, project, or activity.

36 (5) Routine maintenance and operation of any facility located,  
37 in whole or in part, in the Delta, that is owned or operated by a  
38 local public agency.

1 (6) Any plan, program, project, or activity that occurs, in whole  
2 or in part, in the Delta, if both of the following conditions are met:

3 (A) The plan, program, project, or activity is undertaken by a  
4 local public agency that is located, in whole or in part, in the Delta.

5 (B) Either a notice of determination is filed, pursuant to Section  
6 21152 of the Public Resources Code, for the plan, program, project,  
7 or activity by, or the plan, program, project, or activity is fully  
8 permitted by, September 30, 2009.

9 (7) (A) Any project within the secondary zone, as defined  
10 pursuant to Section 29731 of *the* Public Resources Code as of  
11 January 1, 2009, for which a notice of approval or determination  
12 pursuant to Section 21152 of the Public Resources Code has been  
13 filed before the date on which the Delta Plan becomes effective.

14 (B) Any project for which a notice of approval or determination  
15 is filed on or after the date on which the final Bay Delta  
16 Conservation Plan becomes effective, and before the date on which  
17 the Delta Plan becomes effective, is not a covered action but shall  
18 be consistent with the Bay Delta Conservation Plan.

19 (C) Subparagraphs (A) and (B) do not apply to either of the  
20 following:

21 (i) Any project that is within a Restoration Opportunity Area  
22 as shown in Figure 3.1 of Chapter 3: Draft Conservation Strategy  
23 of the Bay Delta Conservation Plan, August 3, 2009, or as shown  
24 in a final Bay Delta Conservation Plan.

25 (ii) Any project that is within the alignment of a conveyance  
26 facility as shown in Figures 1 to 5, inclusive, of the Final Draft  
27 Initial Assessment of Dual Delta Water Conveyance Report, April  
28 23, 2008, and in future revisions of this document by the  
29 department.

30 (8) Leases approved by a special district formed under the  
31 Harbors and Navigation Code if all of the following apply:

32 (A) The uses proposed by the lease are authorized by the  
33 applicable general plan and zoning ordinances of the city where  
34 the special district is located.

35 (B) *The uses proposed by the lease are approved by the city  
36 where the special district is located and the city complies with  
37 Chapter 3 (commencing with Section 85225) of Part 3, if  
38 applicable, prior to approval of the lease by the special district.*

39 ~~(B)~~

1 (C) The special district complies with the California  
2 Environmental Quality Act (Division 13 (commencing with Section  
3 21000) of the Public Resources Code) prior to approving the lease.  
4 ~~(9) Dredging activities and projects conducted by the federal  
5 government or a special district formed under the Harbors and  
6 Navigation Code to improve interstate and international commerce  
7 through the navigable waters of the United States.~~  
8 *(9) Routine dredging activities that are necessary for  
9 maintenance of facilities operated by special districts formed under  
10 the Harbors and Navigation Code.*  
11 (c) Nothing in the application of this section shall be interpreted  
12 to authorize the abrogation of any vested right whether created by  
13 statute or by common law.